

Branigan, Terence

From: Branigan, Terence
Sent: Thursday, November 10, 2016 1:09 PM
To: Bahr, Ryan
Cc: Kuefler, Patrick; Toney, Marcy; Bajor, John; Cooney, Nigel (ENRD)
Subject: Communications with IDEM re the City of Jeffersonville
Attachments: ENV_ENFORCEMENT-#2623101-v1-Jeffersonville_-EPA_IDEM_Letter_re_10yr_Extension_DRAFT.docx

CONFIDENTIAL

Attorney Client Privileged

Hi Ryan,

Exemption 5 Deliberative Process; Attorney Client



Best,

Terry

Terence Branigan
Associate Regional Counsel (C-14J)
U.S. EPA/Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604
(312) 353-4737 phone
(312) 385-5500 fax
branigan.terence@epa.gov

From: Bahr, Ryan
Sent: Thursday, November 10, 2016 12:47 PM
To: HANCOCK, MARC <MHANCOCK@idem.IN.gov>; VOSS, LEIGH <LVOSS@idem.IN.gov>; Riddle, G. Lynn <GRiddle@idem.IN.gov>; ADMIRE, BETH <BADMIRE@idem.IN.gov>; Higginbotham, Paul <PHIGGINB@idem.IN.gov>; Novak, Paul <PNovak@idem.IN.gov>; Dittmer, Jerry <JDITTMER@idem.IN.gov>
Cc: Branigan, Terence <Branigan.Terence@epa.gov>; Kuefler, Patrick <kuefler.patrick@epa.gov>; Cooney, Nigel (ENRD)

<Nigel.Cooney@usdoj.gov>; Bajor, John <bajor.john@epa.gov>

Subject: RE: Conference Call, Monday October 17, 11:30 AM CST, Jeffersonville, In.

Thank you everyone for the call that we had to discuss Jeffersonville's/Scott Chinn's letter to IDEM.

On our call, we decided to ask via letter that Jeffersonville clarify its request. In particular, it was not entirely clear if they were asking for an extension or to also revisit controls. They also did an FCA assessment of the current schedule but did not do an FCA of their requested schedule.

As agreed to on the call, we drafted the attached letter. Please let us know what comments that you have on the letter. After reviewing your comments, we can finalize the draft and send it back to you all to route for signature. We were not sure who would sign at IDEM and left that for you all to fill in. Pat Kuefler is the signature for EPA. Terry checked with Nigel and Nigel was okay having this letter come from EPA and IDEM.

Please provide your comments by the 17th and let us know if you have any questions.

-Ryan (312-353-4366) and Jack (312-353-4633)

From: HANCOCK, MARC [mailto:MHANCOCK@idem.IN.gov]

Sent: Friday, October 14, 2016 12:07 PM

To: Bajor, John <bajor.john@epa.gov>; VOSS, LEIGH <LVOSS@idem.IN.gov>; Riddle, G. Lynn <GRiddle@idem.IN.gov>; ADMIRE, BETH <BADMIRE@idem.IN.gov>

Cc: Branigan, Terence <Branigan.Terence@epa.gov>; Kuefler, Patrick <kuefler.patrick@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>; Cooney, Nigel (ENRD) <Nigel.Cooney@usdoj.gov>; HOUSE, JASON <JAHOUSE@idem.IN.gov>; Novak, Paul <PNovak@idem.IN.gov>; Higginbotham, Paul <PHIGGINB@idem.IN.gov>; Dittmer, Jerry <JDITTMER@idem.IN.gov>

Subject: RE: Conference Call, Monday October 17, 11:30 AM CST, Jeffersonville, In.

Thanks Jack.

For everyone at IDEM who will be participating, I have Conference Room D reserved for this call.

From: Bajor, John [mailto:bajor.john@epa.gov]

Sent: Friday, October 14, 2016 12:22 PM

To: HANCOCK, MARC; VOSS, LEIGH; Riddle, G. Lynn; ADMIRE, BETH

Cc: Branigan, Terence; Kuefler, Patrick; Bahr, Ryan; Cooney, Nigel (ENRD)

Subject: Conference Call, Monday October 17, 11:30 AM CST, Jeffersonville, In.

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Please use the following Conference Call Number and Code for our meeting next week. This will facilitate participation.

Conference Call In **Exemption 2 Internal Agency Rules** ; Conference Code #: **Exemption 2 Internal Agency Rules**

Roo 1517 is reserved for R5 participants.

Marc would you please ensure receipt of this email to all IDEM participants? I think I've got them all from our last discussion.

Please acknowledge receipt of this email.

Regards.

John "Jack" J. Bajor, Jr.
Environmental Engineer/Enforcement Officer
Water Division
Water Enforcement & Compliance Assurance
USEPA, Region 5
WC-15J; **Exemption 2 Internal Agency Rules**
77 West Jackson Blvd.
Chicago, Illinois 60604-3590
Phone: (312) 353-4633
FAX: (312) 886-6090
Email: Bajor.john@epa.gov

WC-15J

CERTIFIED MAIL 7014 2870 0001 9580 7900
RETURN RECEIPT REQUESTED

Mr. Scott Chinn
Faegre Bakers Daniels LLP
300 North Meridian Street Suite 2700
Indianapolis, Indiana 46204-1750

Re: City of Jeffersonville Financial Capability Assessment Update and Request for
Consultation Regarding Proposed Modification of the Long Term Control Plan.
Consent Decree #4:09-CV-0125DFH-WGH

Dear Mr. Chinn:

In a September 7, 2016 letter to the Indiana Department of Environmental Management (IDEM), you requested consultation with IDEM and with the U.S. Environmental Protection Agency (the Agencies) regarding a request for a proposed modification to the City of Jeffersonville's Long Term Control Plan (LTCP). Your letter included a request for a "10-year extension to complete its [Jeffersonville's] remaining projects under the current LTCP and further consultation to implement more economically feasible CSO levels of control for its LTCP." The City also provided an updated Financial Capability Assessment (FCA) dated September 2016.

In reviewing your request and before entertaining a meeting to discuss the request further, the Agencies have identified information that we need as a basis to consider your request and to enable for fruitful discussion. Specifically, the Agencies request that the City provide the following information:

1. Provide an FCA aligned with the 10 year extension that you have proposed. The September 2016 FCA you sent IDEM aligns with the current LTCP schedule. In order to evaluate if a longer schedule is appropriate, the Agencies need an FCA evaluation of the proposed schedule.

2. Please clarify if, in addition to a 10 year extension, the City is requesting a change in the level of control required by the LTCP or a change in controls to be implemented. If the City is requesting either, please provide a detailed description of the changes that the City is requesting including a proposed schedule.

3. The City's request includes cost estimates of \$15 million for upgrades to meet the phosphorus discharge limit included in the City's draft National Pollutant Discharge Elimination System permit. Please provide the basis for these estimates and more detail about the proposed projects that are the basis for these estimates. Please also explain whether the estimates are based on projects to achieve the limit in the draft permit or a different level of control. Please provide the alternative approaches considered and the engineer's opinion of probable costs.

Finally, please communicate directly with both EPA and IDEM regarding any requested changes to the Federal Consent Decree or the LTCP. As EPA and IDEM receive more detailed information to evaluate your request, we will be in a position to have a more productive consultation as requested.

Your responses to items (1) through (3) above should be in writing and should be mailed to:

John "Jack" J. Bajor, Jr.
Enforcement Officer
U.S. EPA, Region 5 (WC-15J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

And

Marc Hancock
CSO Project Manager, Compliance Branch
Office of Water Quality
Indiana Department of Environmental Management
100 North Senate Street
P.O. Box 6015
Indianapolis, Indiana 46206

For all other inquiries and communications directed to the EPA concerning the City of Jeffersonville's updated FCA, the City's proposed modification of the Consent Decree and the LTCP approved under the Consent Decree, and all other related matters, please contact: .

Terry Branigan
Associate Regional Counsel (C-14J)
U.S. EPA/Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604
(312) 353-4737 phone
branigan.terence@epa.gov

Sincerely,

Patrick F. Kuefler
Chief, Water Enforcement and Compliance Assurance
Branch, U.S. Environmental Protection Agency, Region 5

<<Name>>
<<Title>>, <<Branch>>
Office of Water Quality
Indiana Department of Environmental Management

cc (all via email):

Beth Admire, IDEM
Leigh Voss, IDEM
Marc Hancock, IDEM
Lynn Riddle, IDEM
Nigel Cooney, Department of Justice
Terry Branigan, EPA

bcc: Bahr
Bajor
Branigan